

United States  
Circuit Court of Appeals

For the Ninth Circuit.

JOHANNA HIRLINGER,

Petitioner,

vs.

SAMUEL L. BOYD, as Trustee in Bankruptcy of  
the LANE LUMBER COMPANY, LIM-  
ITED, a Corporation, Bankrupt,  
Respondent.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation, Bankrupt.

Petition for Revision and Transcript of  
Record in Support Thereof

Under Section 24b of the Bankruptcy Act of Congress,  
Approved July 1, 1898, to Revise, in Matter of  
Law, of a Certain Order and Judgment of  
the United States District Court  
for the District of Idaho,  
Northern Division.

**FILED**

JAN 17 1914



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# INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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under the debtor, except a purchaser or incumbrancer in good faith and for value."

That on the 22d day of September, 1913, the trustee of said Lane Lumber Company filed with the referee objections to said petition, a certified copy of which objections is hereto attached, made part hereof, and marked Exhibit "AB."

That on the 21st day of October, 1913, the referee made an order therein granting your petitioner the relief prayed for in said petition, a certified copy of which order is hereto attached, made part hereof, and marked Exhibit "AC."

That on the 10th day of November, 1913, the trustee filed his petition for review of said order, a certified copy of which said petition for review is hereto attached, made part hereof, and marked Exhibit "AD."

That on the 19th day of November, 1913, said referee filed with the Clerk of said District Court his Report on said Order, a certified copy of which Report is hereto attached, made part hereof, and marked Exhibit "AE."

That on the 2d day of December, 1913, the Judge of said District Court made and filed his Memorandum Decision in said matter reversing said Order of the referee, a certified copy of which decision is hereto attached, made part hereof, and marked Exhibit "AF."

That on the 23d day of December, 1913, said District Judge made and filed his Findings of Fact and Conclusions of Law, and Judgment, in said matter, certified copies of which said Findings and Conclu-

sions, and Judgment, are hereto attached, made part hereof, and marked Exhibit "AG" and Exhibit "AH," respectively.

That thereafter and on the said 23d day of December, 1913, your petitioner filed her petition for a Rehearing on said Petition for a Review, a certified copy of which said petition for rehearing is hereto attached, made part hereof, and marked Exhibit "AI."

That on the 26th day of December, 1913, said District Judge made an order denying said petition for Rehearing, a certified copy of which said order of the District Judge is hereto attached, made part hereof, and marked Exhibit "AJ."

That said order denying said petition for a rehearing is erroneous:

1st. Because said Memorandum Decision and said Judgment, and each of them, are not supported by said Findings of Fact, in this, to wit: Such Decision and such Judgment, and each of them, are based upon the presumed findings: (a) "In the meantime claimants, as unsecured creditors, have had the right to participate in the administration of the estate and to vote as such unsecured creditors"; (b) "he (the trustee) has also paid in full a trust deed covering these together with other lands, and securing a large issue of bonds of the bankrupt company"; (c) "presumably taxes have been paid upon the lands by the trustee." And such presumed findings, namely, "(a)" and "(b)," are not contained in said Findings of Fact and Conclusions of Law, Exhibit "AG," and



are not based upon issues raised by the trustee's assignment of errors in his said petition for review, Exhibit "AD," and should not have been considered by the District Judge in passing upon said petition for review, marked Exhibit "AD."

2d. Because the mere fact of petitioner having had the right, as an unsecured creditor, to participate in the administration of estate, and to vote as such unsecured creditor, is not, in itself, sufficient to estop petitioner from filing such a substituted proof of secured debt as prayed in said petition marked Exhibit "AA."

3d. Because the payment by the trustee, of a trust deed covering these together with other lands, and securing a large issue of bonds of the bankrupt company, is not, in itself, sufficient to estop petitioner from filing such a substituted proof of secured debt as prayed in said petition marked Exhibit "AA."

4th. Because said Memorandum Decision and said Judgment, and each of them, are not supported by said Findings of Fact, nor are they supported by nor based upon the issues raised by the assignment of errors in said petition for review.

5th. Because the mere payment of taxes by the trustee, in itself, is not sufficient to estop petitioner from filing such a substituted proof of secured debt as prayed in said petition marked Exhibit "AA."

6th. Because said order of the District Judge denying said petition for rehearing prevents your petitioner from doing equity and from receiving equity, that is to say: Such order refuses to accept petitioner's offer to pay to the bankrupt estate and



the trustee all moneys, with legal interest thereon, expended by the trustee on account of taxes on the lands involved, during the administration of said estate.

That said Memorandum Decision and said Judgment, and each of them, are erroneous:

Because of the several preceding assignments of error, numbered one to five, both inclusive, which said errors are fully set forth in the particular grounds and reasons why said order of the District Judge denying said petition for rehearing is erroneous, and which are hereby referred to and assigned by reference as to the specific and particular grounds and reasons why said memorandum decision and said judgment, and each of them, are erroneous.

WHEREFORE, your petitioner, feeling aggrieved by said Memorandum Decision and said Judgment, and said order of the District Judge, and each of them, prays that the same, and each of them, may be reviewed and revised as to matters of law, and that this Court decree that said order of the District Judge, and said Judgment and said Memorandum Decision, and each of them, be vacated and held for naught, and that your petitioner be allowed to file a substituted proof of secured debt as prayed in said petition marked Exhibit "AA," and that your petitioner be given such other and additional relief as shall be proper.

JOHANNA HIRLINGER,

By FRANK LANGLEY,

Attorney for Petitioner,

Postoffice Address: Coeur d'Alene, Idaho, Otterson  
Bldg.

State of Idaho,  
County of Kootenai,—ss.

I, Frank Langley, being first duly sworn, on oath depose and say: That I am the attorney herein for the petitioner named in the foregoing petition, and that I make this verification in her behalf; that I am acquainted with the facts, matters and statements contained in the foregoing petition, and that the same are true to the best of my knowledge, information and belief.

FRANK LANGLEY.

Subscribed and sworn to before me this third day of January, A. D., 1913.

[Seal]

ROBERT H. MUNCEY,  
Notary Public.

*In the United States Circuit Court of Appeals for the  
Ninth Circuit.*

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Acceptance of Service and Waiver of Notice of Filing  
of Petition for Revision.**

Service of the within petition for revision is hereby accepted, and the receipt of a copy thereof including exhibits mentioned therein is hereby acknowledged, and notice of the filing of said petition is hereby waived.

Dated this third day of January, A. D. 1913.

E. N. LaVEINE,  
Attorney for Samuel L. Boyd, Trustee of Bankrupt.

[Endorsed]: United States Circuit Court of Appeals for the Ninth Circuit. Johanna Hirlinger, Petitioner, vs. Samuel L. Boyd, Trustee in Bankruptcy of the Lane Lumber Co., Ltd., a Corporation, Involuntary Bankrupt, Respondent. In the Matter of the Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt. Petition for Revision. Under Section 24b of the Bankruptcy Act of Congress Approved July 1, 1898, to Revise, in Matter of Law, a Certain Order, Judgment and Decision of the United States District Court for the District of Idaho, Northern Division.

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**[Names and Addresses of Attorneys.]**

FRANK LANGLEY, Esq., Attorney for Johanna Hirlinger, Claimant.

Address: Coeur d'Alene, Idaho, Otterson Building.

E. N. LaVEINE, Esq., Attorney for Samuel L. Boyd, Trustee.

Address: Coeur d'Alene, Idaho, Giguere Building.

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*In the District Court of the United States for the District of Idaho, Northern Division.*

IN BANKRUPTCY—#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Bankrupt.

**Proof of Unsecured Debt of Johanna Hirlinger.**

At Spokane, Washington, on the 12th day of August, A. D. 1911, came Johanna Hirlinger, of Spokane, Washington, and made oath and says, that the Lane Lumber Company, Ltd., the corporation against whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly and truly indebted to said deponent in the sum of \$1,333.66. That the consideration of said debt is as follows: Purchase price W. $\frac{1}{2}$  NW. $\frac{1}{4}$  and SE. $\frac{1}{4}$  NW. $\frac{1}{4}$  SW. $\frac{1}{4}$  NE. $\frac{1}{4}$ , Sec. 1, T. 49 N., R. 2 E., B. M., Shoshone Co., Idaho, paid for by one note dated June 10, 1908, due on demand for \$666.67, interest seven per cent, hereto attached and made a part hereof. One note dated June 10, 1908, due on demand for \$666.66, interest seven per cent, these given for timber claim, hereto attached and made a part hereof.

That no part of said debt has been paid except the sum of \$1,333.66; and that there are no setoffs or counterclaims to the same and that deponent has not, nor has any person by his order, or to his knowledge or belief for his use, had or received any manner of securities for said debt whatever; that no note has been given for said debt and neither has any judgment been rendered thereon, other than stated herein.

JOHANNA HIRLINGER,

Subscribed and sworn to before me this 12th day of August, A. D. 1911.

[Notary Seal]

A. W. HOVER,  
Notary Public.

Endorsed]: Filed Sept. 7, 1911. L. L. Lewis, Referee. Filed December 23, 1913, A. L. Richardson, Clerk. [1\*]

EXHIBITS.

\$666.66

Lane, Idaho, Jun 1, 1908.

Six Months after date without grace, we promise to pay to the order of Johanna Hirlinger, Six Hundred sixty-six & 66/100 Dollars, in Gold Coin of the United States of America, of the present standard value, with interest thereon in like Gold Coin at the rate of 8 per cent per annum from date until paid, for value received, Interest to be paid annually and if not so paid the whole sum of both principal and interest to become immediately due and collectible, at the option of the holder of this Note. And in case suit or action is instituted to collect this Note, or any portion thereof we promise and agree to pay, in addition to the costs and disbursements provided by statute, Fifty Dollars in like Gold Coin for Attorneys fees in said suit or action.

LANE LUMBER CO., LTD.,

P. H. WALL,

Pres. & Mgr.,

M. K. WALL,

Secy.

Due Six Months.

[Endorsed]: Interest paid to June 1, 1909, \$53.33.

\$666.67

Lane, Idaho, Jun 1, 1908.

Demand, after date, without grace, we promise to

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\*Page-number appearing at foot of page of original certified Record.



pay to the order of Johanna Hirlinger Six Hundred sixty-six & 67/100 Dollars in Gold Coin of the United States of America, of the present standard value with interest thereon in like Gold Coin at the rate of 8 per cent per annum from date until paid, for value received, Interest to be paid annually, and if not so paid, the whole sum of both principal and interest to become immediately due and collectible at the option of the holder of this Note. And in case suit or action is instituted to collect this Note, or any portion thereof we promise and agree to pay in addition to the costs and disbursements provided by statute Fifty Dollars in like Gold Coin for Attorneys fees in said suit or action.

Due Demand.

Per P. H. WALL,  
LANE LUMBER CO., LTD.,  
Pres. & Mgr.  
M. K. WALL,  
Secy.

[Endorsed]: Interest paid to June 1, 1909, \$53.33.

[2]

**Exhibit "AA"—Petition for Leave to File  
Substituted Proof of Secured Debt, by  
Johanna Hirlinger.**

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LTD., a Corporation,  
Involuntary Bankrupt.



PETITION FOR LEAVE TO FILE SUBSTITUTED PROOF OF SECURED DEBT, BY  
JOHANNA HIRLINGER.

To L. L. Lewis, Esquire, Referee in Bankruptcy:

Comes now Johanna Hirlinger, a creditor of the above-entitled bankrupt, before any disposal of the lands belonging to said bankrupt has been made, and respectfully represents as follows, to wit:

That on or about the first day of June, 1908, your petitioner, being then the owner of the W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , and the SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  of Sec. 1, Twp. 49 N., R. 2 E., B. M., in Shoshone County, State of Idaho, did sell and convey said premises to said bankrupt for the price of \$1,333.66, no part of which has ever been paid; that in evidence of the amount due on such price, and in consideration of said conveyance, said bankrupt then executed and delivered to your petitioner its two certain promissory notes each bearing said date, with interest at 8% per annum and for the sums of \$666.66 and \$666.67, respectively, no part of either of which notes has ever been paid.

That said premises are now a portion of the estate of said bankrupt and have never been transferred nor conveyed to any purchaser in good faith or for value, nor are they subject to any incumbrance in good faith or for value, other than petitioner's claim of lien for the amount due on said notes.

That on the 7th day of September, 1911, through ignorance, inadvertence and mistake, and without knowledge of the law and the facts, your petitioner

filed herein her claim, numbered 62, based upon said notes, as unsecured claims; but that your petitioner is legally entitled to have said debt, evidenced by said [3] notes, declared and adjudged to constitute a vendor's lien against such premises, and to be allowed and paid herein as such a secured and preferred debt. Said claim of lien is based upon sections 3441 and 3443, respectively, of the Idaho Revised Codes, and upon the National Bankruptcy Act.

That an order has been entered and filed herein directing the sale of the above-described premises together with other real property belonging to said estate; that petitioner objects to the sale of said premises under said order, or at all, until petitioner's claim of vendor's lien against said premises for the amount due on said debt is finally determined herein, for the reasons following: That, if such claim of lien is finally adjudged to be valid, petitioner desires to find a purchaser for the land affected thereby who will pay the largest possible price therefor in order that the full amount of such lien shall be recovered, and, if necessary, petitioner may become such purchaser herself, applying in payment of the purchase price, or a part thereof, the ascertained value of such lien; that until the validity of said lien is finally established petitioner cannot know whether the price received by the sale of said premises will be applied in payment of said debt, and for that reason the sale of said premises, at this time, would likely result in the same being sold for less than the amount of said debt, all of which would

be to the damage of your petitioner.

Wherefore, your petitioner prays that she be permitted to withdraw said proofs of unsecured debts, number 62, and to file herein and substitute therefor her Proof of Claim, as a secured debt, based upon the facts as above mentioned, and that such substituted proof of secured debt be declared and adjudged to be and to constitute a vendor's lien against said premises, and that such premises be ordered sold according to law and the practice of this court, and the proceeds of such sale be applied in payment of such lien, and that any deficiency, if any there shall be, after all the proceeds from such sale properly applicable thereto, have been applied [4] to the payment of such lien, shall be allowed and paid as an unsecured debt against said estate; and for such further relief as shall be proper; and for costs herein expended.

This petition is based upon the affidavit attached hereto, and upon the records and files herein, and upon the allegations set forth herein.

JOHANNA HIRLINGER,

Petitioner.

State of Idaho,

County of Kootenai.—ss.

Johanna Hirlinger, the petitioner mentioned and described in the foregoing petition, does hereby make solemn oath that the statements contained therein are true according to the best of her knowledge, information and belief.

JOHANNA HIRLINGER,

Petitioner.

Subscribed and sworn to before me this 30th day of August, 1913.

[Notary Seal]

M. A. KIGER,  
Notary Public. [5]

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LTD., a Corporation,

Involuntary Bankrupt.

**Affidavit [of Johanna Hirlinger].**

State of Idaho,  
County of Kootenai.—ss.

I, Johanna Hirlinger, being first duly sworn, upon oath depose and say: That on the 7th day of September, 1911, through ignorance, inadvertence and mistake, and without knowledge of the law and the facts, my claim for the sum of \$1,333.67, with interest, against the above-named bankrupt was filed in the above-entitled court, with the referee thereof, as an unsecured claim; whereas, deponent at that time was and now is legally entitled to have said sum allowed and paid herein as a secured and preferred claim against said estate.

That the facts upon which deponent claims said sum should be allowed and paid as such a secured debt are as follows, to wit:

That on or about the 1st day of June, 1911, deponent sold and conveyed to said bankrupt the W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , and the SW.  $\frac{1}{4}$  of



NE.  $\frac{1}{4}$  of Sec. 1, Twp. 49 N., R. 2 E., B. M., in Shoshone County, State of Idaho, for the price of \$1,333.67, no part of which was ever paid; that the two promissory notes attached to, and upon which said proof of claim was based, were executed and delivered by said bankrupt to deponent in evidence of said price, and that the same have never been paid; that said premises have never been transferred or conveyed by said bankrupt to any purchaser in good faith or for value, nor are they now subject to any incumbrance given in good faith or for value, other than deponent's claim of lien for the amount due on said notes.

That said notes are now due and unpaid and unsecured, and have been so unsecured at all times herein mentioned, otherwise than by the personal obligation of said bankrupt and of said claim [6] of lien; that such premises belong to said bankrupt, and that I claim a vendor's lien against the same for the amount due on said notes, to wit, the sum of \$1,659.50.

JOHANNA HIRLINGER.

Subscribed and sworn to before me this 30th day of August, 1913.

[Notary Seal]

M. A. KIGER,  
Notary Public.

I hereby accept service of the within Petition and Affidavit and acknowledge the receipt of copies hereof at Coeur d'Alene, Idaho, this 2d day of September, 1913.

E. N. LaVEINE,  
Attorney for Trustee, Samuel L. Boyd.

[Endorsed]: Filed September 3, 1913, L. L. Lewis, Referee, Filed December 23, 1913. A. L. Richardson, Clerk. [7]

**Exhibit "AB"—Objections to the Filing of Substituted Proof of Secured Debt, by Johanna Hirlinger.**

*In the District Court of the United States for the District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

**OBJECTIONS TO THE FILING OF SUBSTITUTED PROOF OF SECURED DEBT, BY JOHANNA HIRLINGER.**

Now comes Samuel L. Boyd, trustee, through his duly appointed attorney, E. N. LaVeine, and objects to the filing of the above referred to substituted proofs of secured debt and moves to dismiss her petition for the following reasons:

I.

That said purported vendor's lien right accrued, if at all, in June, 1908, and that said petitioner has been guilty of gross negligence and laches and at this time is estopped from asserting said purported lien.

II.

That under Section 47a (1) of the Bankruptcy Act of 1898, as amended in 1910, the trustee upon his qualifications became vested with all the rights,



remedies and powers of a creditor holding a lien by legal or equitable proceedings on the land described in said petition and that he has continuously since September 27, 1911, asserted his said lien against said property, paid taxes thereon, sold it to Duval Jackson, without objections from petitioner, which sale was not resisted by petitioner.

### III.

That if petitioner is permitted to file the said Substituted Proof of Secured Debt, her unsecured claim having been allowed, it will alter her position materially and will enable her to obtain an advantage over the other creditors to which, [8] on account of the bankruptcy law and her laches, she is not entitled.

That the trustee's title to said property is not subject to the alleged vendor's lien.

E. N. LaVEINE,  
Attorney for Trustee.

State of Idaho,  
County of Kootenai,—ss.

E. N. LaVeine, attorney for S. L. Boyd, trustee, does hereby make solemn oath that the statements contained in the foregoing objections are true according to the best of his knowledge, information and belief.

E. N. LaVEINE,  
Attorney for Trustee.

Subscribed and sworn to before me this 22d day of September, 1913.

[Notary Seal]

W. F. McNAUGHTON,  
Notary Public.

Received copy of foregoing this 22d day of Sept., 1913.

FRANK LANGLEY,  
Attorney for J. Hirlinger.

[Endorsed]: Filed Sept. 22, 1913. L. L. Lewis, Referee. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [9]

**Exhibit "AC"—Order Allowing Johanna Hirlinger to File Substituted Proof of Secured Debt.**

*In the District Court of the United States for the District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LTD., a Corporation,

Involuntary Bankrupt.

**ORDER ALLOWING JOHANNA HIRLINGER TO FILE SUBSTITUTED PROOF OF SECURED DEBT.**

The petition herein, dated August 30, 1913, of Johanna Hirlinger, for leave to file substituted proof of secured debt, and the Trustee's Objections thereto, dated September 22, 1913, having come regularly on for hearing on the 4th day of October, 1913, Frank Langley appearing as attorney for said Johanna Hirlinger, E. N. LaVeine appearing as attorney for said Trustee, to wit, Samuel L. Boyd, whereupon said petition and objections were argued by the respective counsel and submitted to the Court for its

decision, and the Court being fully advised in the premises, now finds that said objections should be overruled and that said petition should be allowed;

**WHEREFORE, IT IS HEREBY ORDERED** that said Objections, and each and all of them, be, and the same are, hereby overruled;

**AND IT IS FURTHER HEREBY ORDERED** that said petition be, and the same is, hereby allowed and granted.

Done at Coeur d'Alene, Idaho, in said district, this 21st day of October, 1913.

LAWRENCE L. LEWIS,

Referee in Bankruptcy.

Service of the within Order is hereby accepted and the receipt of copy thereof is hereby acknowledged at Coeur d'Alene, Idaho, this 21st day of October, 1913.

E. N. LaVEINE,

Attorney for Samuel L. Boyd, Trustee.

[Endorsed]: Filed Oct. 21, 1913. L. L. Lewis, Referee. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [10]

**Exhibit "AD"—Petition for Review of Referee's Order, Allowing the Filing of Substituted Proof of Secured Debt by Johanna Hirlinger.**

*In the District Court of the United States for the District of Idaho, Northern Division.*

#449.

In the Matter of the **LANE LUMBER COMPANY, LIMITED**, a Corporation,

Involuntary Bankrupt.

PETITION FOR REVIEW OF REFEREE'S  
ORDER ALLOWING THE FILING OF SUB-  
STITUTED PROOF OF SECURED DEBT BY  
JOHANNA HIRLINGER IN THE SUM OF  
\$1,333.66 AND INTEREST, IN LIEU OF  
PROOF OF UNSECURED DEBT HERETO-  
FORE FILED AND ALLOWED.

To Honorable Lawrence L. Lewis, Referee in Bank-  
ruptcy.

Your petitioner respectfully shows.

That he is the duly, qualified and acting trustee of  
the Lane Lumber Company, Limited, a Corporation,  
the above-named bankrupt;

That on September 7, 1911, Johanna Hirlinger  
filed her unsecured proof of debt praying for the al-  
lowance of the amount claimed in said proof of debt,  
to wit: \$1,333.66;

That thereafter on the 10th day of May, 1912, said  
claim was allowed in the sum of \$1,552.58;

That thereafter, on September 2, 1913, said Jo-  
hanna Hirlinger filed her "Petition for Leave to File  
Substituted Proof of Secured Debt."

That on September 22, 1913, the trustee caused  
to be filed his "objections to the filing of substituted  
proof of secured debt by Johanna Hirlinger."

That thereafter on October 21, 1913, the referee  
caused to be filed his "order allowing Johanna Hir-  
linger to file a substituted proof of secured debt,"  
said order overruled the above referred to objections  
of the trustee to the filing thereof;

That said order allowing the filing of the said  
proof of secured debt will grant to Johanna Hirlinger

the right to assert a vendor's lien against the property of the bankrupt described [11] in her original unsecured claim heretofore referred to, said property being the W.  $\frac{1}{2}$  of the NW.  $\frac{1}{4}$  and the SE.  $\frac{1}{4}$  of the NW.  $\frac{1}{4}$  and the SW.  $\frac{1}{4}$  of the NE.  $\frac{1}{4}$  of Section 1, Twp. 49 North, Range 2 E., B. M., Shoshone County, Idaho.

That said order was and is erroneous in that:

1. That said purported vendor's lien right accrued, if at all, in June, 1908, and that said Johanna Hirlinger has been guilty of gross negligence and laches and now is estopped from asserting said purported vendor's lien;

2. That under section 47a (1) of the Bankruptcy Act of 1898, as amended in 1910, the trustee upon his qualification became vested with all the rights, remedies and powers of a creditor holding a lien by legal or equitable proceedings on the land described and that he has continuously since September 27, 1911, asserted his said lien against said property, paid taxes thereon, sold it to Duval Jackson without objections from the petitioner, which sale was not resisted by Johanna Hirlinger;

3. That the referee by allowing Johanna Hirlinger to file the said substituted proof of secured debt, her unsecured claim having been allowed, he allows her to alter her position materially and will enable her to obtain an advantage over the other creditors to which, on account of the Bankruptcy law and her laches, she is not entitled;

4. That the referee should have held that the property of the bankrupt, including the lands de-



scribed herein on which Johanna Hirlinger claims a vendor's lien, passed to the trustee on September 26, 1911, and that he thereupon became and still is vested with the rights, remedies and powers of a creditor holding a lien by legal or equitable proceedings, and that the trustee's title was and is paramount to that of the vendor lien claimant and that said land is not subject to a vendor's lien; [12]

5. That the trustee's title to said property is not subject to the alleged vendor's lien, and Sections 3441 and 3443 Idaho Revised Codes do not apply as against trustees in bankruptcy;

6. That for the foregoing reasons claimant is estopped from asserting a vendor's lien, and that said referee erred in making and entering the order allowing Johanna Hirlinger to file substituted proof of secured debt; that section 47 of the Bankruptcy Act as amended in 1910 is a bar to said lien; that said order is against the law.

WHEREFORE, your petitioner feeling aggrieved because of said order prays that the same may be reviewed as provided by the Bankruptcy Act and the General Orders.

SAMUEL L. BOYD,  
Trustee.

Dated November 10, 1913. [13]

State of Idaho,  
County of Kootenai,—ss.

Samuel L. Boyd, the trustee mentioned and described in the foregoing petition for review, does hereby make solemn oath that the statements contained in the foregoing petition are true accord-



ing to the best of his knowledge, information and belief.

SAMUEL L. BOYD,  
Trustee.

Subscribed and sworn to before me this 10th day of November, 1913.

[Notary Seal] JOSEPH B. HOGAN,  
Notary Public.

E. N. LaVEINE,  
Attorney for Trustee.

[Endorsed]: Filed November 10, 1913. L. L. Lewis, Referee. Filed December 23, 1913. A. L. Richardson, Clerk. [14]

**Exhibit "AE"—Report of Referee.**

*In the District Court of the United States for the District of Idaho, Northern Division.*

IN BANKRUPTCY.—No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

REPORT OF REFEREE IN BANKRUPTCY ON  
AN ORDER ALLOWING THE FILING  
OF SUBSTITUTED PROOF OF SECURED  
DEBT BY JOHANNA HIRLINGER IN THE  
SUM OF \$1,333.66, AND INTEREST, IN LIEU  
OF PROOF OF UNSECURED DEBT HERE-  
TOFORE FILED AND ALLOWED.

To the Honorable FRANK S. DIETRICH, District  
Judge:

I, Lawrence L. Lewis, Referee in Bankruptcy, in

charge of the above-entitled proceedings, do hereby certify:

## 1.

That during the course of said proceedings on, to wit, the 21st day of October, 1913, an order was made and filed herein overruling the objections of the trustee to the petition of Johanna Hirlinger praying for leave to file, herein, her substituted proof of secured debt, and granting the prayer of said petition.

## 2.

That thereafter on, to wit, the 10th day of November, 1913, Samuel L. Boyd, trustee of the above-entitled estate, feeling aggrieved thereat, filed herein his petition for Review, which said petition was duly granted.

## 3.

That a full, true and correct summary of the proceedings on which said order was made is as follows, to wit: [15]

On, to wit, the 7th day of September, 1911, the proof of claim of Johanna Hirlinger for the sum of One Thousand Three Hundred Thirty-three and 66/100 (\$1333.66) Dollars, was duly filed herein; that thereafter, on, to wit, the 10th day of May, 1912, said claim came regularly on to be heard and was duly allowed (including interest) in the sum of One Thousand Five Hundred Fifty-two and 58/100 (\$1552.58) Dollars, as an unsecured claim. (See Record of Proceedings, pages 889 and 892); that thereafter on, to wit, the 2d day of September, 1913, said claimant filed herein her petition praying for

leave to file substituted proof of secured debt; that thereafter on, to wit, the 22d day of September, 1913, the objections of the trustee thereto were duly filed herein; that thereafter on, to wit, the 4th day of October, 1913, the said petition and the trustee's objections thereto came regularly on for hearing; that thereafter, authorities were submitted on the issues raised by said petition and the said objections thereto; and, after the entire matter had been taken under advisement, the said order of the 21st day of October, 1913, was duly made and filed herein, to which said order the trustee duly excepted, and submits that said order was and is erroneous in six specific particulars, which said particulars are fully set forth in his said petition for review.

THE PRECISE QUESTIONS SUBMITTED for consideration and decision are these:

1. Does the order allowing Johanna Hirlinger, the said claimant, to file a substituted proof of secured claim permit her to materially alter her position in said cause so as to give her an advantage over other creditors or any one, or at all, to which, by law, she is not entitled?

2. Is the order from which this review is taken correct in point of law?

I hand up, herewith, for the information of the Judge, the following records, files and papers, to wit:

[16]

1. Petition for review.
2. Record of proceedings, pages 889 and 892.
3. Petition for leave to file substituted claim.
4. Objections to trustee to petition.

5. Order allowing petition.

6. Proof of claim of Johanna Hirlinger.

I FURTHER CERTIFY that the above and foregoing are all the papers, records or files used or pertaining to this review.

Done at Coeur d'Alene, Idaho, in said district, this 19th day of November, A. D. 1913.

Respectfully submitted,

LAWRENCE L. LEWIS,

Referee in Bankruptcy.

[Endorsed]: Filed November 19, 1913. A. L. Richardson, Clerk. [17]

**Exhibit "AF"—Decision upon Two Petitions for Review.**

*In the United States District Court for the District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
a Corporation,

Bankrupt.

DECISION UPON TWO PETITIONS FOR  
REVIEW, NAMELY, THOSE OF JAMES M.  
BROWN AND JOHANNA HIRLINGER.

Dec. 2, 1913.

E. N. LaVEINE, Attorney for Trustee.

FRANK LANGLEY, Attorney for Claimants.

DIETRICH, District Judge:

One of the questions involved in these petitions for review is passed upon in the decision upon petitions for review in the matter of the claims of M. K. Wall, Joseph Brown and Mary Wall, this day filed.

The distinctive question is whether or not the



claimants should at this time be permitted to amend their proofs of claim, which, as originally filed, disclosed only unsecured claims. While, as held in passing upon the other petitions for review referred to, vendor's liens are established by the statutes of the state, and must therefore be recognized, being undisclosed by the records and of a secret nature, a court of equity should not indulge an overliberal discretion in assisting claimants to assert them. *Bayley vs. Greenleaf*, 5 L. Ed. 393; 7 Wheat. 46. One of the liens here claimed arises out of a sale of June 1, 1907, and the other out of a sale of June 1, 1908. Apparently neither the [18] trustee nor the creditors ever had any notice or intimation that such claims would be asserted until petitions were filed for leave to substitute proof of secured claim for proof of unsecured claim. In the one case the claim for unsecured debt was allowed on June 12, 1912, and in the other on May 10, 1912. Petitions for leave to file substituted claims were not filed until about the month of September of the current year. In the meantime the claimants, as unsecured creditors, have had the right to participate in the administration of the estate and to vote as such unsecured creditors. Presumably taxes have been paid upon the lands by the trustee, and other expenses incurred by him in looking after and protecting the land. He has also paid in full a trust deed covering these together with other lands, and securing a large issue of bonds of the bankrupt company. Upon the whole, I am inclined to the view that the assertion at this late date of secured claims cannot be permitted with-

out prejudice to other creditors, and that therefore it would be unfair and inequitable to allow them. The order of the referee allowing the substitution of secured for unsecured claims will therefore in each case be reversed.

[Endorsed]: Filed Dec. 2, 1913. A. L. Richardson, Clerk. [19]

**Exhibit "AG"—Findings of Fact and Conclusions  
of Law.**

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

**JOHANNA HIRLINGER PETITION TO FILE  
PROOF OF SECURED DEBT OF \$1659.50.**

The petition of Johanna Hirlinger for leave to file substituted proof of secured debt in the sum of \$1,659.50 came on regularly before the court without a jury on petition of the trustee for review of the order made herein by the referee granting such petition to substitute; and from the facts presented by the pleadings and the records the Court finds as follows, to wit:

I.

That on June 1, 1908, Johanna Hirlinger, the claimant herein, sold and conveyed to the Lane Lumber Company, Limited, a corporation, bankrupt above named, the West half of the Northwest quarter



(W.1/2 NW.1/4), the Southeast quarter of the Northwest quarter (SE. 1/4 NW. 1/4) and the Southwest quarter of the Northeast quarter (SW. 1/4 NE. 1/4) of section one (1), Township forty-nine (49) North, Range Two (2) E., B. M., Shoshone County, State of Idaho, for the price of \$1,333.67, with interest at 8% per annum until paid; that the whole of such price and interest is now, and was on, to wit, the 20th day of June, 1911, the date of filing of the petition in bankruptcy against said Lane Lumber Company, Limited, due, unpaid and unsecured otherwise than by the personal obligation of the buyer, the said Lane Lumber Company, Ltd.

## II.

That on July 29, 1911, the said Lane Lumber Company, [20] Ltd., was adjudged an involuntary bankrupt.

## III.

That on September 22, 1911, Samuel L. Boyd qualified as trustee of the estate of said bankrupt, and has continued and is now acting as such trustee.

## IV.

That on September 7, 1911, through ignorance, inadvertence and mistake, and without knowledge of the law, claimant filed herein her claim against said bankrupt for said price and interest, being in all the sum of \$1,659.50, as unsecured debt, and the same was thereafter, on May 10, 1912, allowed by the referee as an unsecured debt in said sum.

## V.

That on September 2, 1913, claimant filed herein her petition asking leave to withdraw said proof of

unsecured debt and to substitute therefor a proof of secured debt based upon the facts hereinbefore found, claiming, under sections 3441 and 3443 Idaho Revised Codes, a vendor's lien upon said premises which are now, and which have been at all times hereinbefore mentioned subsequent to June 1, 1908, the property of the bankrupt.

## VI.

That on September 22, 1913, the trustee filed objections to said petition.

## VII.

That on October 21, 1913, the Honorable Lawrence L. Lewis, referee herein, made and filed an order overruling such objections and granting said petition to substitute.

## VIII.

That on November 10, 1913, the trustee filed his petition for review of said order of the referee dated October 21, 1913. [21]

## IX.

That on November 19, 1913, the referee filed his report with the clerk of this court, bearing upon said claim and therewith transmitted all the papers above mentioned and record of the proceedings had before the referee herein being pages 889 to 892, inclusive.

## X.

That the trustee had no notice of said unpaid purchase price set forth in said petition until it was filed with the referee herein.

## XI.

Taxes have been paid on the lands involved, by the trustee, and it would be unfair and inequitable at

this late date to allow claimant to assert her vendor's lien.

### CONCLUSIONS OF LAW.

As a conclusion of law from the foregoing facts, the Court finds that the referee's order complained of should be reversed and that said claimant's petition to file herein and substitute for her proof of unsecured debt a proof of secured debt asserting a vendor's lien should be denied; and it is so ordered, adjudged and decreed.

Dated December 23, 1913.

FRANK S. DIETRICH,  
District Judge.

Dated December 23, 1913.

O. K.—E. N. LA VEINE,  
Attorney for Trustee,  
FRANK LANGLEY,  
Atty. for Claimant.

[Endorsed]: Filed Dec. 23, 1913, A. L. Richardson, Clerk. [22]

### Exhibit "AH"—Judgment.

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

JOHANNA HIRLINGER PETITION TO FILE  
PROOF OF SECURED DEBT OF \$1659.50.

In the above-entitled matter, the petition of the trustee in bankruptcy for review of an order of the

referee in bankruptcy allowing Johanna Hirlinger to file a substituted proof of secured debt in lieu of an unsecured debt filed and allowed, in the sum of \$1,659.50, as a lien (vendor's) upon the west half of the northwest quarter, the southwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter of section 1, township 49 north, range 2 east, B. M., Shoshone County, State of Idaho, came on to be heard, and was argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged and decreed that said order of the referee be, and the same is, hereby reversed.

Dated this 23d day of December, 1913.

FRANK S. DIETRICH,

Judge.

[Endorsed]: Filed December 23, 1913. A. L. Richardson, Clerk. [23]

**Exhibit "AI"—Petition of Johanna Hirlinger for a Rehearing.**

*In the District Court of the United States for the District of Idaho, Northern Division.*

IN BANKRUPTCY—#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

**PETITION OF JOHANNA HIRLINGER FOR A REHEARING.**

Now comes Johanna Hirlinger, by her attorney herein, Frank Langley, and respectfully petitions this Honorable Court for a rehearing upon the peti-

tion of the trustee for a review of the Referee's order allowing the filing of substituted proof of secured debt by Johanna Hirlinger in the sum of \$1,333.66 and interest, which order of the referee was reversed by memorandum decision by the District Judge dated December 2, 1913, and for grounds of rehearing respectfully states and shows:

### I.

That the mere fact of the claimant having had the right, as an unsecured creditor, to participate in the administration of the estate and to vote as such unsecured creditor is not sufficient to estop her from filing a substituted proof of secured debt based upon sections 3441 and 3443 Idaho Rev. Codes and section 67 of the Bankruptcy Act as amended; nor is such a finding supported by the issues raised by the assignments of error in the trustee's petition for review of the referee's order allowing such substitution.

### II.

That the payment of taxes by the trustee is not sufficient to estop claimant from filing a substituted proof of secured debt based upon said sections of the statutes. [24]

### III.

That the payment, by the trustee, of a trust deed covering these together with other lands, and securing a large issue of bonds of the bankrupt company, is not sufficient to estop claimant from filing such a proof of secured debt; nor is such a finding supported by the issues raised by the assignments of error in the trustee's said petition for review.



## IV.

That the decision dated December 2, 1913, refusing claimant the right to file such a proof of secured debt, is not supported by the issues raised by the assignments of error in the trustee's said petition for review.

## V.

That the trustee's said petition for review was submitted to the Court, without argument, and with the trustee's express admission that the referee's said order should be affirmed in the event of the vendor lien claim of Mary Wall being allowed herein, and that such vendor lien claim was so allowed. That claimant has been at all times herein mentioned, and is now, ready and willing to repay to the trustee all moneys, with legal interest thereon, so paid by him on account of such taxes. That the trustee has paid taxes on the lands involved herein in the total sum of \$28.66 on the dates mentioned in the hereto attached certificate marked exhibit "A," and made part hereof by reference, and no more; and your petitioner hereby offers to pay into court, to reimburse the trustee and said estate for all taxes so paid, said sum of \$28.66, with legal interest thereon from the time the same was so paid until this date.

Wherefore, petitioner prays for a rehearing upon said petition of the trustee and that said decision dated December 2, 1913, be vacated, and for such other relief as may be proper.

Dated December 22d, 1913.

FRANK LANGLEY,  
Attorney for Petitioner, Postoffice Address, Coeur  
d'Alene, Idaho. [25]

State of Idaho,  
County of Kootenai,—ss.

Frank Langley, being first duly sworn, deposes and says: That he is the attorney for Johanna Hirlinger, the petitioner in the foregoing petition; that he has prepared the attached petition and that the facts stated therein are true.

FRANK LANGLEY.

Subscribed and sworn to before me this 22d day of December, 1913.

LAWRENCE L. LEWIS.

Referee in Bankruptcy. [26]

EXHIBIT "A."

W.1/2 NW.1/4 SE.1/4 NW.1/4 and SW.1/4 NE.1/4 of  
Section One (1) in Township Forty-nine (49) North,  
Range Two (2) East, Boise Meridian, in Shoshone  
County Idaho.

\* \* \* \* \*

Assessed to the Lane Lumber Co. for year 1911,  
Total tax thereon, \$23.94, paid July 5th, 1912, By  
Samuel L. Boyd, Trustee of Lane Lumber Co.

\* \* \* \* \*

Assessed to the Lane Lumber Co. for year 1912.  
Total tax thereon, \$9.44. First installment of \$4.72  
paid January 4th, 1913, by Samuel L. Boyd, Trustee  
of the Lane Lumber Co.

The remaining one-half (\$4.72) of taxes for year  
1912, with penalties, costs, etc., still delinquent and  
unpaid, and tax sale certificate thereon has issued to  
Shoshone County.

\* \* \* \* \*

State of Idaho,  
County of Shoshone,—ss.

I, John P. Sheehy, County Auditor in and for the County of Shoshone, State of Idaho, do hereby certify that the above is a full, true and correct statement of all taxes paid upon the above-described property between the first day of July, A. D. 1911, and the first day of October, A. D. 1913, with the dates of such payments and the names of the persons by whom made, as shown by the records of my office.

IN WITNESS whereof, I hereunto set my hand and affixed my official seal at my office in Wallace, Idaho, this 15th day of December, A. D. 1913.

[Seal]

JOHN P. SHEEHY,  
County Auditor.

[Endorsed]: Certified Statement of Taxes for the Years 1911 and 1912 on W. $\frac{1}{2}$  NW. $\frac{1}{4}$  SE. $\frac{1}{4}$  NW. $\frac{1}{4}$  SW. $\frac{1}{4}$  NE. $\frac{1}{4}$  Section One (1) in Twp. (49) N. R. (2) East Boise Meridian. Shoshone County Idaho.  
[27]

Due service of the within petition for rehearing is hereby accepted, and the receipt of a true copy thereof is hereby admitted, at Coeur d'Alene, Idaho, this 22d day of December, 1913, reserving the right to strike contradictory and redundant statements.

E. N. LaVEINE,  
Attorney for Samuel L. Boyd, Trustee.

[Endorsed]: Filed Dec. 23, 1913. A. L. Richardson, Clerk. [28]

**Exhibit "AJ"—Order Denying Petition for Rehearing.**

At a stated term of the District Court of the United States for the District of Idaho, held at Boise, Idaho, on Tuesday, the 26th day of December, 1913. Present: HON. FRANK S. DIE-TRICH, Judge.

No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

On this day the Court ordered that the petition for rehearing on application of Johanna Hirlinger for leave to file substituted proof of secured debt be and the same is hereby denied. [29]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED a Corporation,  
Involuntary Bankrupt.

**Praeipce [for Certified Transcript of Record].**  
PRAEIPCE BY JOHANNA HIRLINGER, FOR  
TRANSCRIPT OF RECORD ON JOHANNA  
HIRLINGER PETITION TO FILE VEN-  
DOR LIEN CLAIM IN THE SUM OF  
\$1659.60.

To the Honorable A. L. Richardson, Clerk of the  
United States District Court:

You are hereby respectfully requested to prepare a certified transcript of the following described papers with the date of filing thereon, in the above-entitled proceeding:

1. Johanna Hirlinger's proof of unsecured debt, for \$1333.66, with exhibits attached thereto, excluding power of attorney, filed with the referee on September 7, 1911.

2. Petition for leave to file substituted proof of secured debt, Johanna Hirlinger, excluding power of attorney, filed with the referee on September 2, 1913.

3. Objections, by trustee, to said petition for leave to file substituted proof of secured debt, filed with the referee on September 22, 1913.

4. Order of referee allowing the filing of substituted proof of secured debt, by Johanna Hirlinger, filed by the referee on October 21, 1913.

5. Petition by trustee, for review of referee's said order, filed with the referee on November 10, 1913.

6. Report of referee on his order allowing the filing of [30] the above claim, filed with the Clerk of the United States District Court on November 19, 1913.

7. Memorandum decision of the District Judge, filed December 2, 1913, reversing said order of the referee.

8. Findings of Fact and Conclusions of Law by the District Judge, filed December 23, 1913.

9. Judgment by the District Judge, filed December 23, 1913.



10. Petition for Rehearing by Johanna Hirlinger, filed December 23, 1913.

11. Order by District Judge, denying said Petition for Rehearing, filed December 26th, 1913, (or, if no such order was filed, then the clerk's docket entry by which said Petition for Rehearing was denied).

12. This praecipe, with attached stipulation, filed January 4, 1914.

Dated January 2, 1914.

FRANK LANGLEY,

Attorney for Johanna Hirlinger.

In order to facilitate the petition for revision, in this matter, it is hereby stipulated between Frank Langley, attorney for Johanna Hirlinger, claimant, and E. N. LaVeine, attorney for Samuel L. Boyd, Trustee, that the papers included in the foregoing praecipe, when certified by the clerk of this court, shall constitute the Transcript of Record on Petition for Revision to the Circuit Court of Appeals. It is expressly agreed and understood that the trustee by his stipulation herein does not waive his right to move to dismiss this proceeding on the ground that the matter involved should be presented by appeal instead of revision.

FRANK LANGLEY,

Attorney for Johanna Hirlinger, Claimant. Address: Coeur d'Alene, Idaho, Otterson Building.

E. N. LaVEINE,

Attorney for Samuel L. Boyd, Trustee. Address: Coeur d'Alene, Idaho, Giguere Building. [31]

**Return to Record.**

On presentation of the foregoing it is ordered by the Court that a transcript of the record, as above stipulated, be transmitted to the United States Circuit Court of Appeals, for the Ninth Circuit, and the same is transmitted accordingly.

[Seal] Attest:        A. L. RICHARDSON,  
Clerk.        [32]

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**[Certificate of Clerk U. S. District Court to Transcript of Record.]**

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

United States of America,  
State of Idaho,—ss.

I, A. L. Richardson, Clerk of the District Court of the United States for the District of Idaho, do hereby certify that the foregoing copies of Johanna Hirlinger's proof of unsecured debt, with exhibits attached thereto; Johanna Hirlinger's petition for leave to file substituted proof of secured debt; objections, by the trustee, to said petition for leave to file substituted proof of secured debt; order of referee allowing the filing of substituted proof of secured debt of Johanna Hirlinger; petition by trustee for review of referee's said order; Report of referee on his said order;

Memorandum Decision of the District Judge; Findings of Fact and Conclusions of Law by the District Judge; Judgment by the District Judge; Petition for Rehearing, by Johanna Hirlinger; Order of District Judge denying said petition for rehearing; praecipe, with attached stipulation, and each and all of them, have been by me compared with the originals, and that it is a correct transcript therefrom and of the whole of such originals as the same appears of record and on file at my office and in my custody.

And I further certify that the cost of record herein amounts to the sum of \$20.50, and that the same has been paid by the appellant.

WITNESS my hand and the seal of said District Court, affixed at Boise, Idaho, in said District this 6th day of January, 1914.

[Seal]

A. L. RICHARDSON,

Clerk. [33]

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[Endorsed]: No. 2367. United States Circuit Court of Appeals for the Ninth Circuit. Johanna Hirlinger, Petitioner, vs. Samuel L. Boyd, as Trustee in Bankruptcy of the Lane Lumber Company, Limited, a Corporation, Bankrupt, Respondent. In the Matter of the Lane Lumber Company, Limited, a Corporation, Bankrupt. Petition for Revision and Transcript of Record in Support Thereof Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law,

42      *Johanna Hirlinger vs. Samuel L. Boyd.*

of a Certain Order and Judgment of the United  
States District Court for the District of Idaho,  
Northern Division.

Received and filed January 8, 1914.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.